

REMARKS

Claims 1 and 3-33 remain pending in the application, claim 2 being canceled herein.

No new issues are raised, nor is further search required, as a result of the Amendments made herein. It is respectfully requested that the Amendment be entered.

Claims 1-7, 12-21 and 26-29 over Lechleider in view of Bellenger

In the Office Action, claims 1-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger et al., U.S. Patent No. 6,058,110 ("Bellenger"); and claims 8-11, 22-25 and 30-33 were rejected under 35 USC 103(a) as allegedly being obvious over Lechleider in view of Bellenger, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III et al. ("Vogt"). The Applicants respectfully traverse the rejections.

Claims 1-33 are amended herein to articulate more clearly that the present invention relates to the use of an analog/DSL modem for efficient **provisioning** of DSL service.

With this in mind, claims 1 and 3-15 recite receiving a subscriber login request **while a DSL portion of a combination analog/DSL modem is NOT provisioned for DSL service**, and **provisioning** DSL service on said service line **if** suitability is determined to support DSL service, wherein **the DSL service is automatically qualified for service**. Claims 16-26 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem **while a DSL portion is NOT provisioned for DSL service**, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being **automatically switched to use of a DSL portion after provisioning**. Claims 27-33 recite a parameter reference module adaptively connected to said combination analog/DSL modem adapted to instruct a service provider to attempt **PROVISION** of DSL service on the service line **if suitability is determined to support DSL service**.

Lechleider relates to the prediction of performance of broadband ADSL using a voiceband ONLY modem. In accordance with Lechleider, a list of ADSL ready subscribers is created.

In Lechleider, the subscriber doesn't HAVE a DSL modem at the time of testing, much less be capable of automatic PROVISIONING of DSL service as required by the claims of the present invention. (See Lechleider, Abstract)

The Examiner acknowledges that Lechleider fails to disclose use of an analog/DSL modem wherein the combination analog/DSL modem supports analog service to a subscriber and DSL service to the subscriber (Office Action, page 5). The Office Action relies on Bellenger to allegedly make up for the deficiencies in Lechleider to arrive at the recited features.

Bellenger, col. 2, lines 56-60, is cited by the Examiner as allegedly teaching the use of a modem that operates throughout the voice band and in an extended DSL band above the voice band (Office Action at 5).

Vogt is cited by the Examiner for allegedly teaching that the tip and the ring voltage can be measured to calculate the capacitance and resistance of the telephone line (Office Action at 14).

Nevertheless, neither Lechleider, Bellenger nor Vogt discloses, teaches or suggests PROVISIONING to a subscriber using a combination analog/DSL modem, much less attempted automatic PROVISIONING based on results of their specific suitability. In both Lechleider and Bellenger, at BEST, DSL service is ALREADY provisioned before operation of the relevant modem.

Accordingly, for at least all the above reasons, claims 1 and 3-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William H. Bollman", written over a horizontal line.

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